

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

BECKLEY DIVISION

KAREEM HORTON,

Plaintiff,

v.

CIVIL ACTION NO. 5:10-cv-00290

D. BERKEBILE and

v. BLANKENSHIP,

Defendants.

MEMORANDUM OPINION AND ORDER

The Court has reviewed the Plaintiff's March 10, 2010, Application to Proceed Without Prepayment of Fees (Document 1) and Complaint (Document 2).


By Standing Order (Document 3) entered on March 10, 2010, this action was referred to the Honorable R. Clarke VanDervort, United States Magistrate Judge, for submission to this Court of proposed findings of fact and recommendation for disposition, pursuant to 28 U.S.C. § 636. On October 26, 2012, the Magistrate Judge submitted a Proposed Findings and Recommendation (Document 4) wherein it is recommend that this Court deny the Plaintiff's Application to Proceed Without Prepayment of Fees, dismiss the Plaintiff's Complaint, and remove this matter from the Court's docket.

Neither party has timely filed objections to the Magistrate Judge's Proposed Findings and Recommendation¹. The Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Failure to file timely objections constitutes a waiver of *de novo* review and the Petitioner's right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); *see also Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989); *United States v. Schronce*, 727 F.2d 91, 94 (4th Cir. 1984).

Accordingly, the Court **ADOPTS** and incorporates herein the findings and recommendation of the Magistrate Judge as contained in the Proposed Findings and Recommendation, and **ORDERS** that the Plaintiff's Application to Proceed Without Prepayment of Fees (Document 1) be **DENIED**, the Plaintiff's Complaint (Document 2) be **DISMISSED**, and this action be **REMOVED** from the Court's docket.

The Court **DIRECTS** the Clerk to send a certified copy of this Order to Magistrate Judge VanDervort, counsel of record, and any unrepresented party.

ENTER: November 15, 2012


IRENE C. BERGER
UNITED STATES DISTRICT JUDGE
SOUTHERN DISTRICT OF WEST VIRGINIA

¹ The docket reflects that the Proposed Findings and Recommendation originally sent to the Plaintiff was returned as undeliverable, but re-mailed on November 1, 2012.